L. R. A. 199, 54 Am. St. Rep. 159; *Skinner* v. *Pinney,* 19 Fla. 42, 45 Am. Rep. 1; *Deposit Co.* v. *Investment Co. et al.,* 107 La. 251, 31 So. 736; *Ayres* v. *Hubbard,* 71 Mich. 594, 40 N. W. 10; *Whiting* v. *Adams,* 66 Vt. 679, 30 Atl. 32, 25 L. R. A. 598, 44 Am. St. Rep. 875. No specific reason is given in the opinion of the principal case for allowing the higher measure of damages, the court merely saying that defendant is "justly chargeable" with the manufactured value because of its "reckless disregard" of plaintiffs' rights. The greater amount thus allowed is usually regarded partly as exemplary damages. *Heard et al.* v. *James,* 49 Miss. 236; *Beede* v. *Lamprey,* 64 N. H. 510, 15 Atl. 133, 10 Am. St. Rep. 426. But a recent opinion by a federal court rejects this doctrine and says that the increased measure of damages is due to the fact that defendant, because of his bad faith, gains no right of property in the timber by his improvements as he does when acting in good faith. *Dartmouth College* v. *International Paper Co.,* 132 Fed. 92.

EVIDENCE—ADMISSIONS OF A TENANT IN COMMON.—Defendant offered to prove by the admission of one of the tenants in common, who are now prosecuting the partition suit, that the deed under which the tenants in common claim did not contain the names of the plaintiffs as grantees at the time it was executed. *Held* (WOODS, J., dissenting), that it should be admitted as against the party who made it. *Windham et al.* v. *Howell et al.* (1907), — S. C. —, 59 S. E. Rep. 852.

The leading opinion is based entirely on analogous cases of parties claiming under a will. In all these cases admissions of a party claiming under a will have all been excluded, because, as was said in *McMullan* v. *McDill,* 110 Ill. 47: "If this was a case where a judgment could be rendered against one of the defendants without affecting the rights of the others, there might be some ground for admitting in evidence the declaration as against the defendant who made them; but such is not the case. The only question here is as to the validity of the will, and testimony which defeats one defendant—one devisee—defeats all, and a judgment against one necessarily defeats all." WIGMORE, EV., § 1081, says as to this theory: "The refinement of reasoning and scrupulosity of caution which practically shuts out all such evidence of admissions in will cases seems to be ill-judged. It is nevertheless approved by most courts today." The dissent is based on the rule of law, that an admission by one tenant in common, though not admissible against the other tenants in common, is admissible against the party making it. *Dan* v. *Brown,* 4 Cowen 483. And this would seem to be the correct view. The fact that the plaintiffs have chosen an action in which a judgment against one defeats all ought not to preclude the defendant from proving the admission. Even in the case of a will, WIGMORE, EV., § 1081, says: "The fact that there can be but a single judgment for or against the validity of the entire will constitutes only an imaginary obstacle."

EVIDENCE — EFFECT OF PLAINTIFF'S REFUSAL TO SUBMIT TO PHYSICAL EXAMINATION.—In a personal injury case the plaintiff refused to have her injuries inspected by a committee of physicians, four of whom had been